

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution – General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-20-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The Physical Performance Test on 10-21-03 was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 11-12-04 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

CPT code 99455-V4-WP for date of service 10-22-03 was denied by the carrier with a V for unnecessary medical treatment based on a peer review. However, according to Rule 134.202(e)(6)(B)(iii), this exam is not subject to IRO review. The requestor billed the above service in accordance with Rule 134.202 (e)(6)(D)(II)(-b-)(1-2) for an MMI/IR rating. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service, therefore, **reimbursement is recommended** in the amount of \$401.74.

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 10-21-03 through 10-22-03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 15th day of December 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division
DA/da

Enclosure: IRO decision

November 23, 2004

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M5-05-0577-01
CLIENT TRACKING NUMBER: M5-05-0577-01 5278

Medical Review Institute of America (MRloA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRloA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRloA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRloA for independent review.

Records Received:

Records Received from TWCC:

TWCC IRO Request dated 11/12/04, 1 page

TWCC receipt of request for Medical Dispute Resolution, 1 page

Medical Dispute Resolution request/response dated 10/20/04, 2 pages

Table of Disputed Services, 2 pages

TWCC 62 EOB denial for DOS 10/21/03, 1 page

Records Received from Synergy Chiropractic:

Retrospective review information request, dated 11/15/04, 1 page

Synergy Chiropractic report regarding: treatment, history, and functional capacity summary, 34 pages

TWCC 69 – Report of medical evaluation, dated 10/22/03, 1 page

Maximum Medical Improvement and Impairment rating, Dr. Guajardo, D.C., dated 10/22/03, 2 pages

Summary of Treatment/Case History:

As reported by Dr. Guajardo, Chiropractor for Synergy Chiropractic:

On ___, the patient was injured when a pallet jack fell onto the ankle–leg–foot region of her body, causing pain and injury. She was immediately taken to the ER at East Houston Medical where she was x-rayed, treated, casted then released.

As reported by Dr. Guajardo, D.C.:

X-rays, CT scan and MRI were taken. No reports were included in the packet for this review. It was stated that NCV was taken on the injured ankle revealing tarsi tunnel.

On 7/23/03 a Designated Doctor Exam was performed and a recommendation of continued therapy was requested.

Question for Review:

Dates of service in question are 10/21/03 and 10/22/03.

1. Would the CPT code's #97750 (physical performance tests) and #99455 (Work related or medical disability examination by the treating physician), be medically necessary for this injury and for this patient?

Explanation of Findings:

The patient was injured on ___, she was taken to the hospital, x-rayed, casted and released. An MRI taken on 6/25/03 shows effusion to the joint (swelling). On 7/15/03 a Functional Capacity exam was performed that only allowed the patient medium return to work activity, not full activity.

Following the Functional Capacity Exam a Designated Doctors Exam was performed to evaluate the patients status regarding whether she had met medical maximum improvement. The independent Designated Doctor recommended at that time the patient return to physical therapy and continue the healing process. Following continued physical therapy, another evaluation of the patient's abilities and functional capacity was performed, as it should be after continued therapy following the recommendation of such by the Designated Doctor.

Conclusion/Decision to Certify:

Dates of service in question is 10/21/03 and 10/22/03.

1. Would the CPT code's #97750 (physical performance exam) and #99455 (work related or medical disability examination by the treating physician), be medically necessary for this injury and for this patient?

Being within the given time frame and the treatment protocols and recommendation of continued therapy post the Designated Doctors Exam, it is both medically necessary and reasonably prudent to re-examine using CPT code #97750 (physical performance exam), and #99455 (work related or medical disability examination by the treating physician), to evaluate the injured worker's ability and recovery status, and to determine the return to work status.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:

Evaluation and measurement using reliable equipment and under physician guidance is necessary to evaluate an individual's performance of activities within a structured setting. It must be competent and assess capacity of the individual's abilities based on relevant performance.

References Used in Support of Decision:

AMA Guidelines for the Evaluation of Permanent impairment 4th Edition pg 305
Practical Orthopedics – Lonnie Mercier (ankle and Foot) Fourth Edition

Appropriate Coding:

The claims were coded and priced appropriately for area in practice.

The physician providing this review is board certified in chiropractic medicine. The reviewer also holds additional certifications in Acupuncture and Orthopedics. The reviewer is a member of their state chiropractic association and is certified to provide reviews for the workers compensation commission as a designated doctor, RME and IME. The reviewer has been in active practice since 1998. MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payer and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIOA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIOA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIOA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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